

Federal Aviation Administration, DOT

§ 158.13

the authority of such public agency to impose a PFC or use the PFC revenue in accordance with this part.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34541, May 30, 2000]

§ 158.9 Limitations.

(a) No public agency may impose a PFC on any passenger—

(1) For more than 2 boardings on a one-way trip or in each direction of a round trip;

(2) On any flight to an eligible point on an air carrier that receives essential air service compensation on that route. The Administrator makes available a list of carriers and eligible routes determined by the Department of Transportation for which PFC's may not be imposed under this section;

(3) Who is a nonrevenue passenger or obtained the ticket for air transportation with a frequent flier award coupon;

(4) On flights, including flight segments, between 2 or more points in Hawaii;

(5) In Alaska aboard an aircraft having a certificated seating capacity of fewer than 60 passengers; or

(6) Enplaning at an airport if the passenger did not pay for the air transportation that resulted in the enplanement due to Department of Defense charter arrangements and payments.

(b) No public agency may require a foreign airline that does not serve a point or points in the U.S. to collect a PFC from a passenger.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34541, May 30, 2000; Amdt. 158-4, 72 FR 28847, May 23, 2007]

§ 158.11 Public agency request not to require collection of PFC's by a class of air carriers or foreign air carriers or for service to isolated communities.

(a) Subject to the requirements of this part, a public agency may request that collection of PFC's not be required for—

(1) Passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total

number of passengers enplaned annually at the airport at which the fee is imposed; or

(2) Passengers enplaned on a flight to an airport—

(i) That has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

(ii) In a community that has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.

(b) The public agency may request this exclusion authority under paragraph (a)(1) or (a)(2) of this section or both.

[Doc. No. FAA-2000-7402, 65 FR 34541, May 30, 2000]

§ 158.13 Use of PFC revenue.

PFC revenue, including any interest earned after such revenue has been remitted to a public agency, may be used only to finance the allowable costs of approved projects at any airport the public agency controls.

(a) *Total cost.* PFC revenue may be used to pay all or part of the allowable cost of an approved project.

(b) *PFC administrative support costs.* Public agencies may use PFC revenue to pay for allowable administrative support costs. Public agencies must submit these costs as a separate project in each PFC application.

(c) *Maximum cost for certain low-emission technology projects.* If a project involves a vehicle or ground support equipment using low emission technology eligible under §158.15(b), the FAA will determine the maximum cost that may be financed by PFC revenue. The maximum cost for a new vehicle is the incremental amount between the purchase price of a new low emission vehicle and the purchase price of a standard emission vehicle, or the cost of converting a standard emission vehicle to a low emission vehicle.

(d) *Bond-associated debt service and financing costs.* (1) Public agencies may use PFC revenue to pay debt service and financing costs incurred for a bond issued to carry out approved projects.

(2) If the public agency's bond documents require that PFC revenue be commingled in the general revenue stream of the airport and pledged for

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the benefit of holders of obligations, the FAA considers PFC revenue to have paid the costs covered in § 158.13(d)(1) if—

(i) An amount equal to the part of the proceeds of the bond issued to carry out approved projects is used to pay allowable costs of such projects; and

(ii) To the extent the PFC revenue collected in any year exceeds the debt service and financing costs on such bonds during that year, an amount equal to the excess is applied as required by § 158.39.

(e) *Exception providing for the use of PFC revenue to pay for debt service for non-eligible projects.* The FAA may authorize a public agency under § 158.18 to impose a PFC for payments for debt service on indebtedness incurred to carry out an airport project that is not eligible if the FAA determines that such use is necessary because of the financial need of the airport.

(f) *Combination of PFC revenue and Federal grant funds.* A public agency may combine PFC revenue and airport grant funds to carry out an approved project. These projects are subject to the record keeping and auditing requirements of this part, as well as the reporting, record keeping and auditing requirements imposed by the Airport and Airway Improvement Act of 1982 (AAIA).

(g) *Non-Federal share.* Public agencies may use PFC revenue to meet the non-Federal share of the cost of projects funded under the Federal airport grant program or the FAA “Program to Permit Cost-Sharing of Air Traffic Modernization Projects” under 49 U.S.C. 44517.

(h) *Approval of project following approval to impose a PFC.* The public agency may not use PFC revenue or interest earned thereon except on an approved project.

[Docket No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158–4, 72 FR 28847, May 23, 2007]

§ 158.15 Project eligibility at PFC levels of \$1, \$2, or \$3.

(a) To be eligible, a project must—

(1) Preserve or enhance safety, security, or capacity of the national air transportation system;

(2) Reduce noise or mitigate noise impacts resulting from an airport; or

(3) Furnish opportunities for enhanced competition between or among air carriers.

(b) Eligible projects are any of the following projects—

(1) Airport development eligible under subchapter I of chapter 471 of 49 U.S.C.;

(2) Airport planning eligible under subchapter I of chapter 471 of 49 U.S.C.;

(3) Terminal development as described in 49 U.S.C. 47110(d);

(4) Airport noise compatibility planning as described in 49 U.S.C. 47505;

(5) Noise compatibility measures eligible for Federal assistance under 49 U.S.C. 47504, without regard to whether the measures are approved under 49 U.S.C. 47504;

(6) Construction of gates and related areas at which passengers are enplaned or deplaned and other areas directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport. These areas do not include restaurants, car rental and automobile parking facilities, or other concessions. Projects required to enable added air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport have added eligibility. Such projects may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities next to the gate;

(7) A project approved under the FAA’s “Program to Permit Cost-Sharing of Air Traffic Modernization Projects” under 49 U.S.C. 44517; or

(8) If the airport is in an air quality nonattainment area (as defined by section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a), and the project will result in the airport receiving appropriate emission credits as described in 49 U.S.C. 47139, a project for:

(i) Converting vehicles eligible under § 158.15(b)(1) and ground support equipment powered by a diesel or gasoline